

Chapter 14.56

WORKS OF ART

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14.56.010 Works of Art Defined.

Works of art shall mean the application of skill and taste to tangible objects produced according to aesthetic principles and include, but are not limited to, sculpture, engravings, carvings, frescos, mobiles, murals, collages, mosaics, statues, and bas-reliefs. (Ord. 16402 §1; June 28, 1993).

14.56.020 Purpose and Criteria for Regulations.

The purpose of this ordinance is to promote the public health, safety, and welfare through the regulation of placement, appearance, maintenance, and insuring of works of art on city property and public rights-of-way so as to:

- (a) Make B-3, B-4 and "P" zoned districts an active and attractive pedestrian environment;
 - (b) Encourage and support development of the arts in the City;
 - (c) Provide for pedestrian and driving safety and convenience;
 - (d) Restrict the unreasonable interference with the flow of pedestrian or vehicular traffic including ingress into or egress from any residence or place of business, or from the street to the sidewalk by persons exiting or entering parked or standing vehicles;
 - (e) Provide reasonable access for the use and/or maintenance of trees, shrubs, poles, posts, traffic signs or signals, hydrants, mailboxes, and access to locations used for public transportation purposes;
 - (f) Encourage well-designed and aesthetically compatible works of art; and
 - (g) Reduce unnecessary exposure of the city to personal injury or property damage claims.
- (Ord. 16402 §2; June 28, 1993).

14.56.030 Works of Art Permitted.

Notwithstanding any provisions of the Lincoln Municipal Code to the contrary and subject to the provisions of this chapter, works of art shall be allowed upon public property in the B-3 Commercial

District, the B-4 Lincoln Center Business District, and the P Public Use District and within the public right-of-way adjacent to the B-3, B-4 and "P" zoning districts upon the issuance of a permit by the City Council. (Ord. 16402 §3; June 28, 1993).

14.56.040 Application for Permit.

An application for permit shall be filed with the Director of Urban Development upon a form provided by such Director for that purpose, and shall include the following information:

- (a) The name, address, and telephone number of the applicant;
- (b) The name, address, and telephone number of a responsible person whom the city may notify or contact at any time concerning the applicant's work of art;
- (c) Description of the work of art or proposed work of art and any supporting, anchoring, or enclosing structure for said work of art; said description shall include a photograph or sketch of the work of art if available.
- (d) Description of the type, frequency, and extent of maintenance requirements required to preserve the quality and value of the work of art;
- (e) Site plan showing exact location of each work of art and any supporting or enclosing structure and sufficient information to determine that said location complies with Section 14.56.060 of this chapter;
- (f) Such application shall also contain a statement that the applicant will, in consideration of being issued a permit for the use of space, agree to release the City and the officers and employees of the City for any loss or damage to the work of art and further agree to hold harmless the City of Lincoln and the officers and employees of the city for any loss or damage arising out of the use of the space, or the discontinuance of such use; that the applicant understands that the use of the space is to be temporary; that the applicant shall not acquire any right, title, or interest in such space; that the applicant may be required by the city at any time to vacate all or any part of the space the applicant has been given permission to use; that upon termination of the permit and demand to vacate such space, the applicant will promptly remove any work of art placed thereon by such applicant, or reimburse the city for the cost of moving such work of art; and that the applicant shall have no recourse against either the city or its officers or agents, either for any loss or damage occasioned by the applicant being required to vacate all or part of the space which the applicant has been granted permission to use.
- (g) If the applicant is not the owner of the work of art, such application shall also contain a consent and release upon a form provided by the Director of Urban Development for that purpose from the owner of the work of art consenting to the location of the work of art upon public property or within the public right-of-way and releasing the City for any loss or damage to the work of art while located upon such public property or within such public right-of-way. (Ord. 16402 §4; June 28, 1993).

14.56.050 Review and Recommendations.

- (a) Upon receipt of an application as described in Section 14.56.040, the Director of Urban Development shall refer the application to the Planning Department, Department of Public Works and Utilities, Parks and Recreation Department, the Urban Design Committee, and, where applicable, to the Historic Preservation Commission or Capitol Environs Commission. Such application shall be reviewed by the Planning Department in regard to the urban design relationship of the application to the streetscape; by the Department of Public Works and Utilities regarding the amount of pedestrian movement to be

accommodated, the appropriateness of the area to be licensed, and any possible damage to the public sidewalks or underground utility lines from the installation or anchoring of the work of art; and by the Parks and Recreation Department in regard to any possible damage to trees, shrubs, landscape, or park infrastructure. The application shall also concurrently be reviewed by the Urban Design Committee in regard to the appropriateness of the design and materials. If the work of art is to be located in a historic landmark district or in the Capitol Environs District, said application shall also be reviewed by the Historic Preservation Commission or the Nebraska Capitol Environs Commission, respectively, in regard to the relationship of the application and its appropriateness for location in such districts.

Upon receipt of the reports from the Planning Department, Department of Public Works and Utilities, Parks and Recreation Department, the Urban Design Committee, and, where applicable, the Historic Preservation Commission or the Capitol Environs Commission, the Director of Urban Development shall request that the application be placed on the Council agenda. (Ord. 16951 §113; March 11, 1996: prior Ord. 16402 §5; June 28, 1993).

14.56.060 Standards for Location and Operation.

No work of art shall be located:

(a) Within five feet of kiosk, bench, trash receptacle, drinking fountain, or bicycle rack, or three feet of mailbox, post, pole, or any area planted with grass, shrubs, flowers, or trees; except that such standards may be waived if pedestrian circulation space between such items and the work of art is not needed and sufficient space for maintenance of such items and the work of art is provided; if the original design of such items specifically provides for works of art in an integrated design; or if the work of art may be incorporated into an integrated design of such items.

(b) Within five feet of a bus shelter, unless the height of the work of art does not exceed a height of three and one-half feet measured from the surface of the sidewalk;

(c) Within the sight triangles of street, alley, and driveway intersections;

(d) So as to reduce the clear, continuous sidewalk width to less than eight feet;

(e) Within five feet of any fire hydrant or other emergency facility;

(f) Within five feet of any driveway or alley;

(g) Within five feet ahead of, and twenty feet to the rear of any sign marking a designated bus stop:

(h) Within six feet of a display window or building entrance;

(i) Within six feet of the curb face;

(j) So as to impair or interfere with pedestrian traffic;

(k) So as to interfere or impair the vision of operators of vehicles at street intersections;

(l) So as to require the pruning or removal of any tree, shrub, or flowers except that such standard may be waived if such pruning or removal of any tree, shrub or flowers would not diminish the aesthetic appearance, natural form, value and/or health of such trees, shrubs, and the surrounding landscaping;

(m) Upon "O" Street right-of-way (i.e. U.S. Highway 34) or any other federal aid highway without approval of the Federal Highway Administration and the Nebraska Department of Roads and in accordance with any conditions of such approval. (Ord. 16402 §6; June 28, 1993).

14.56.070 Permit Conditions.

A permit to use public property or public right-of-way for the location of a work of art shall be subject to the following conditions:

- (a) That such space shall only be used for the work of art specified on the permit in accordance with the requirements of these or any other applicable regulations.
- (b) That such use is temporary, and that the user acquires no right, title, or interest in the space permitted to be used.
- (c) That the City Council may require such space to be vacated upon demand and its use discontinued, with no recourse against the city for any loss or damage occasioned by any such requirement.
- (d) That if any such space be not vacated and such use be not discontinued by the time specified, the city may remove from such space any work of art left thereon at the risk and expense of the owner.
- (e) That the permit issued pursuant to this section is a personal privilege and may not be transferred or alienated voluntarily or involuntarily.
- (f) No advertising shall be permitted on any work of art except to identify the work and/or the name of the artist and donor of the work of art, and shall in all respects comply with the provisions of Titles 22 and 27 of this code regulating signage.
- (g) The work of art shall be located only in the exact location described in the approved application.
- (h) The permittee shall be responsible for any damage or repairs to public property caused by the installation or removal of any work of art.
- (i) All installations shall be under the supervision of the City Sidewalk Inspector and the City Sidewalk Inspector shall determine the method of placement of the work of art or any supporting, anchoring, or enclosing structure for the work of art requiring placement in the sidewalk or other right-of-way surface.
- (j) The Urban Development Department shall monitor the condition of the work of art. The permittee shall be responsible for properly maintaining the work of art so as to preserve its quality and value.
- (k) The permittee shall be responsible for any authorized removal or pruning of trees or shrubs and such work shall only be done by a licensed and insured arborist.
- (l) Any other conditions imposed by the City Council. (Ord. 16402 §7; June 28, 1993).

14.56.090 Suspension or Revocation of Permit.

Any permit issued pursuant to this chapter may be suspended or revoked by the Council after notice for any of the following causes:

- (a) Fraud, misrepresentation, false statement contained in the application for the license;
- (b) Violation of this chapter or any of the provisions of the Lincoln Municipal Code;
- (c) Upon demand of the City Council. (Ord. 16402 §9; June 28, 1993).

14.56.100 Insurance.

The applicant shall be required to:

- (a) At all times maintain public liability insurance in the form of a commercial or comprehensive general liability policy, or an acceptable substitute policy form as permitted by the City Attorney, with a

minimum combined single limit of \$1,000,000.00 aggregate for any one occurrence. The coverages required herein shall be subject to review and approval by the City Attorney for conformance with the provisions of this section;

(b) At all times keep on file with the City Clerk a current certificate of insurance signed by a qualified agent of an insurance company licensed to do business in the State of Nebraska and approved by the City Attorney for conformance with the provisions of this section evidencing the existence of valid and effective policies of insurance naming the city as an additional insured for the coverage required by subsection (a) of this section, the limits of each policy, the policy number, the name of the insurer, the effective date and expiration date of each policy, the deductibles or self-insurance retainers of each policy, and a copy of an endorsement placed on each policy requiring thirty day's notice by mail to the City Clerk before the insurer may cancel the policy for any reason, and upon request of the City Clerk or the City Attorney, a copy of any endorsements placed on such policies or the declarations page of such policies. Any termination or lapse of such insurance shall automatically revoke any permit issued pursuant to this chapter. (Ord. 16402 §10; June 28, 1993).

14.56.110 Renewal and Termination of Permits.

All permits shall expire one year following the date of issuance. After the initial approval of a permit by the City Council for a specific location, an annual renewal of such permit may be administratively approved by the Mayor without further action by the City Council. (Ord. 16402 §11; June 28, 1993).

14.56.120 Permit Fee.

Any person issued a permit under this chapter shall pay to the city a permit fee of fifty dollars for each permit and shall pay a permit fee of twenty-five dollars for each annual renewal of said permit. (Ord. 16402 §12; June 28, 1993).